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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER
TANG, KAREN C

ART UNIT	PAPER NUMBER
2151	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/638,399	SEKIMOTO ET AL.
	Examiner	Art Unit	
	Karen C. Tang	2151	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 June 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,18,19 and 21-34</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,18,19 and 21-34</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

- This action is responsive to the amendment and remarks file on 6/25/07.

- Claims 1, 18, 19, 21-34 are presented for further examination.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 18, 19, 21-34 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues with respect to 101 rejection that "it is well known in the art that a server is a computer or a device that manages network resources, and that a terminal is a devie that enables communications with a computer, therefore, terminal and computer each fall under the statutory category of a machine" on page 14, of Argument/Remarks filed on 6/25/07.

The examiner disagrees.

It has been defined in the Microsoft Dictionary that a server can be a program that responses to client's comments. Further, a terminal can be an application with access to the MAC OS X UNIX core, therefore, it does not fall under the statutory category of a machine.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 19, 21-25, 27-28, 29, 31, 32, 34 are rejected under 35 U.S.C. 101 because "A content delivery server" can be considered as software per se, which is not one of the categories subject matters. A content server, can be considered as a program according Microsoft Computer

Dictionary that, it can be a program that receive comments from a user. Please see the

attachment, which is the photocopy from the Microsoft Dictionary that defines the Server.

Claim 18, 26, 30, 33 are rejected under 35 U.S.C. 101 because "A content reception

terminal" can be considered as software per se, which is not one of the categories subject

matters.

It has been defines in the Microsoft Dictionary a terminal can be an application that

access to the MAC OS X UNIX core, therefore, it does not fall under the statutory category of a

machine. Please see the attachment, which is the photocopy from the Microsoft Dictionary that

defines the terminal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 18, 19, 21-34 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Bergman (US 6,564,263) in view of Juen et al hereinafter Juen (US 5,812,703).

1.   Referring to Claims 1, 18, 19, 21, 27, 30, 31, 32, 33, and 34, Bergman disclosed a content

delivery server comprising: an input/output unit (inherent that server comprising input/output

unit in order to transmit/receive information) for performing transmission and reception of

information between itself and a terminal connected thereto (refer to Col 5, Lines 44-46); a

content management unit for managing a content composed of at least one or more modalities (content adaptation unit, refer to Col 5, Line 57); and a control unit for controlling said input/output unit and the content management unit (server comprising processing unit which control all processor, it is inherent), wherein the control unit obtains, of attribute information composed of terminal attribute information on an output interface at the terminal (modalities information, refer to Col 6, Lines 38-55, and Col 19, Lines 25-67), environment attribute information (location/position/latitude /longitude) on a current ambient environment of said terminal including at least one of a locational situation of said terminal (position, Col 6, Lines 50-55), and user attribute information on a characteristic of a user using the content by means of said terminal (refer to Col 6, Lines 40-56), at least two sets of the attribute information (multiple transformations) via said input/output unit (refer to Col 8, Lines 1-10), wherein the control unit generates, based on said obtained attribute information sets, modality construction information specifying modalities to be delivered to said terminal, wherein the control unit determines, by using the modality construction information, a modality construction for the content to be delivered, and the control until delivers said content composed of said determined modalities to said terminal via said input/output unit (refer to Col 8, Lines 1-10 and Col 7, Lines 60-66, Lines 10-20); user attribute information including at least one of a visual ability and an auditory ability (language and browsing, refer to Col 9, Lines 10-20); disclosed wherein said control unit determines modalities to be delivered to the terminal based on said generated modality construction information (refer to Col 10, Lines 1-10) and by using said obtained attribute information and an attribute relation chart showing respective priorities of a plurality of attribute elements recorded thereon (refer to Col 9, Lines 5-25, refer to Col 10, Lines 10-30); wherein said

terminal attribute information includes at least one of presence or absence of a video output unit at said terminal, presence or absence of a voice output unit at said terminal (modality, contain video, audio, or images information), and a type of a modality displayable (fidelity) on the video output unit or the voice output unit (refer to Col 10, Lines 30-45); wherein said terminal attribute information includes at least one of presence or absence of a video output unit at said terminal, presence or absence of a voice output unit at said terminal (modality, contain video, audio, or images information), and a type of a modality displayable (fidelity) on the video output unit or the voice output unit (refer to Col 10, Lines 30-45); wherein said environment attribute information includes at least one of a current location of said terminal (location/position/latitude /longitude, refer to Col 6, Lines 40-56), a positional relationship between the terminal (refer to Col 8, Lines 55-60, Col 6, Lines 50-60) and the user, a sound characteristic between the terminal and the user, and a video characteristic between the terminal and the user (refer to Col 19, Lines 25-40); wherein said user attribute information includes at least one of a visual ability of the user, an auditory ability of the user, and information on the user's preferences to a video image and a sound (refer to Col 19, Lines 25-40); Bergman disclosed wherein said the control unit generates said modality construction information by preferentially evaluating said terminal attribute information (refer to Col 10, Lines 1-10).

Although Bergman disclosed the invention substantially as claimed, Bergman is silent regarding environment attribute information is a noise around said terminal.

Juen, in an analogous art disclosed environment attribute information is a noise around said terminal (refer to Col 3, Lines 20-35).

Hence, providing features disclosed by Juen, would be desired for a user to implement because Juen provides the way to correct the image captured signals from the imaging devices with appropriated noise signals without backup power source and enabling high quality image. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Bergman by including the features which provided by Juen.

2.   Referring to Claim 22, Bergman disclosed wherein said control unit performs the determination of said modalities by selecting, among the modalities composing the content, the modalities of the content corresponding to said modalities construction information (refer to Col 1-20).

3.   Referring to Claim 23, Bergman disclosed wherein said control unit performs the determination of said modalities by selecting among the modalities composing the content based on said modality construction information and reconstructing the selected modalities into said determined modalities (refer to Col 7, Lines 60-67 and Col 8, Lines 1-20).

4.   Referring to Claims 24, Bergman disclosed wherein said control unit perform the determination of said modality by selecting among the modalities composing the content based on said modality construction information (refer to Col 8, Lines 20-67) and converting the selected modalities into different modalities (refer to Col 9, Lines 50-55 and Col 10, Lines 1-10).

5.   Referring to Claim 25, Bergman disclosed wherein said control unit determines

modalities to be delivered to the terminal based on said generated modality construction

information (refer to Col 10, Lines 1-10) and by using said obtained attribute information and an

attribute relation chart showing respective priorities of a plurality of attribute elements recorded

thereon (Col 9, Lines 1-25, Col 10, Lines 1-10).

6.   Referring to Claim 28, Bergman disclosed wherein said control unit determines

modalities to be delivered to the terminal based on said generated modality construction

information (refer to Col 10, Lines 1-10) and by using said obtained attribute information and an

attribute relation chart showing respective priorities of a plurality of attribute elements recorded

thereon (refer to Col 9, Lines 5-25, refer to Col 10, Lines 10-30).

7.   Referring to Claim 12, Bergman disclosed wherein said environment attribute

information includes at least one of a current location of said terminal (location/position/latitude

/longitude, refer to Col 6, Lines 40-56), a positional relationship between the terminal (refer to

Col 8, Lines 55-60, Col 6, Lines 50-60) and the user, a sound characteristic between the terminal

and the user, and a video characteristic between the terminal and the user (refer to Col 19, Lines

25-40).

Conclusion

Examiner's Notes: Examiner has cited particular columns and line numbers in the

references applied to the claims above for the convenience of the applicant. Although the

specified citations are representative of the teachings of the art and are applied to specific

limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (571)272-3440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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VALENCIA MARTIN-WALLACE
PRIMARY EXAMINER